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HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

SINGLE BENCH: HON'BLE SHRI S.R. NAYAK, CJ.

WRIT PETITION NO. 351 OF 2006

PETITIONER — Bal Ashram, A society registered and incorporated under Society Registrikaran Adhiniyam, 1973, having registered office at Kutchery Chowk, Raipur, Represented through the Secretary, Shantilal Parakh, son of Late M.L. Parakh, Resident of Kutchery Chowk, Bal Ashram Campus, Raipur (C.G.)

Vs.

RESPONDENTS

1. State of Chhattisgarh Through the Secretary, Firms & Societies, Mantralay, D.K.S. Bhawan, Raipur (C.G.)
2. The Registrar, Firms & Societies, 'O'-5, Anupam Nagar, Raipur (C.G.)
3. The Assistant Registrar, Firms & Societies 'O' 5, Anupam Nagar, Raipur (C.G.)

Present: Mr. Kishore Bhaduri, learned counsel for the petitioner.
Mr. N.K. Agrawal, learned Dy. Advocate, General, with Mr. Yashwant Singh, learned G.A. for the State of Chhattisgarh.
Mr. S.C. Verma, learned counsel for the intervener.

ORAL ORDER
(Passed on 31st March, 2006)

In this writ petition, the notice issued by the State Government under Section 33 of the Chhattisgarh Society Registrikaran Adhiniyam, 1973 (for short 'the Adhiniyam') proposing to supersede the governing body of the petitioner – Society is assailed on the ground that the impugned notice is one without authority of law inasmuch as the petitioner – Society is not a "State aided society" within the meaning of that term as defined under clause (f) of Section 3 of the Adhiniyam.

(2) Before appreciating the above contention, at the threshold, it needs to be noticed that the only ground available to assail a statutory notice is that the person who has issued the notice is not the competent prescribed authority. Therefore, the only thing to be seen in this case is whether the State Government has the legal authority to take steps envisaged under Section 33 of the Adhiniyam. Sub-section (1) of Section 33 of the Adhiniyam reads as follows:

> "33. **Supersession of governing body.-** (1) if, in the opinion of the State Government, governing body of any State aided society-
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> (a) persistently makes default or is negligent in the performance of the duties imposed on it by or under this Act, regulations or byelaws of the society or by any lawful order passed by the State Government or Registrar, or is un-willing to perform such duties; or
>
> {(a) Persistently makes default or is negligent in the performance of the duties imposed on it by or under this Act, regulation or bye-laws of the society or by or under any other enactment for the time being in force or by any lawful order passed by the State Government or Registrar or is unwilling to perform such duties; or}
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> (b) commits acts which are prejudicial to the interest of society or its members; or
>
> (c) is otherwise not functioning properly;
>
> the State Government may, by order in writing, remove the governing body and appoint a person or persons to manage the affairs of the society for a specified period not exceeding two years in the first instance:
>
> Provided that where it is proposed to remove the governing body of the society exclusively on the ground that election to the governing body were not held in accordance

with the provisions of this Act or the regulations or byelaws made thereunder, no action shall be taken under this sub-section unless the Registrar or an officer authorized by him in this behalf has convened a meeting of the general body for conducting the election thereto in accordance with the provisions of this Act, or the Regulations or byelaws made thereunder but has failed to get the new governing body elected:

Provided further that the Registrar or the Officer authorized by him shall, for the purpose of conducting election have all the necessary powers under the Act of the regulations or byelaws made thereunder."

It is true that the power of the State Government conferred under Section 33 could be invoked only against the governing body of any "State aided society". The term "State aided society" is defined under clause (f) of Section 3 of the Adhiniyam, which reads as follows:

"3. **Definitions.-** In this act, unless the context otherwise requires,-

(a) ----------

(b) ----------

(c) ----------

(d) ----------

(e) ----------

(f) "State aided society" means a society which receives or has received aid or grant or loan from Central Government or State Government or any other statutory body.

A Society in order to be a "State aided society" should have received aid, grant or loan or has received land or building or both on concessional rates and other facilities from the Central Government or State Government or any statutory body.

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(3) The State Government on service of notice has opposed the writ petition by filing a detailed return. In the return, it is contended by the State Government that the petitioner – Society has received lands from the Government free of cost and, therefore, it satisfies the definition of the "State aided society" as defined under clause (f) of Section 3 of the Adhiniyam. In support of the above plea, the State Government has produced a Xerox copy of the lease deed dated 25/05/1996 in Form H produced at page 19 of the material papers appended to the return of the State Government. Under the said document, three parcels of land bearing plot nos. 3/5, 3/6 and 1/1 admeasuring 1,51,653 sq. ft. have been leased free of cost in favour of the petitioner – Society for a period ending on 31st Day of March, 2022. However, it is the contention of the learned counsel for the petitioner that the above document is a 'renewal of lease' earlier granted in favour of the donor of the subject land, namely, one Balkishan Nathani and, therefore, it could not be said that under the above document the aforementioned lands are granted in favour of the petitioner – Society for the purpose of construing the term "State aided society". I do not find any merit in the above contention of the learned counsel for the petitioner. The language employed in clause (f) of Section 3 of the Adhiniyam is plain, clear, precise, unambiguous and does not admit more than one meaning or construction. If a society among other things has received land on concessional rate from the Government, then, undeniably such society would satisfy the definition of "State aided society". In the instant case, admittedly, the petitioner – Society was registered as far back as on 26/08/1929 under Registration No.136. Although the document dated 25/05/1996 produced by the Government at page 19 of the material papers would show that the document is a renewal

of lease, the fact remains that the lessee under the said document is not Balkishan Nathani, but, it is the petitioner – Society. The petitioner – Society by virtue of the said document has become lessee of the aforementioned three parcels of lands for a period up to 31st March 2022, and this right has been acquired by the petitioner – Society free of cost. In that view of the matter and keeping the legislative intendment behind the enactment of the provisions of Section 33 of the Adhiniyam, it cannot be said that the Government lacks jurisdiction or authority to initiate proceedings under section 33 of the Adhiniyam, simply, because, some or all of the three parcels of land were earlier granted to the donor of the petitioner – Society free of cost or reduced cost and the same lands were subsequently renewed in the name of the petitioner – Society. The character of the grant in the hands of the petitioner – Society would not alter or change so long as it is shown that the grant was made free of cost or reduced cost or concessional rate. What is essential is that the society must have received a land of the Government at a concessional rate, that is to say, at a rate which is less than market rate prevailing at any point of time and place. The petitioner – Society having acquired the land at the hands of the Government at the concessional rate is liable to be regulated in the matter of managing its affairs by statutory intervention envisaged under Section 33 of the Adhiniyam. Looking from any angle, the State Government has power and competence to initiate the proceedings under Section 33 of the Adhiniyam. The writ petition is, therefore, dismissed.

Sd/-
Chief Justice